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Paper No. 6

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JUN 27 2002

OFFICE OF PETITIONS

In re Application of :
Konstantin Volodarsky et al : DECISION GRANTING
Application No. 10/041,058 : PETITION
Filed: December 28, 2001 :
Attorney Docket No. 042496/0269291 :
NT-005 (D) :

This is a decision on the paper styled "PETITION TO CORRECT FILING DATE" filed on May 29, 2002, which is properly treated as a petition under 37 CFR 1.10(c), requesting that the above-identified application be accorded a filing date of December 28, 2001, rather than the presently accorded filing date of January 7, 2002.

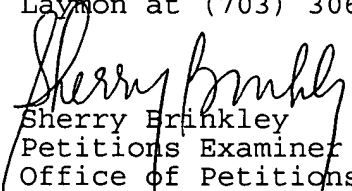
Applicants request the earlier filing date on the basis that the application was purportedly deposited with the U.S. Postal Service (USPS) as Express Mail on December 28, 2001, pursuant to the requirements of 37 CFR 1.10. In support, applicants provide, inter alia, a copy of the receipt for Express Mail label No. EL754037524US, showing a Date-In of December 28, 2001. The same Express Mail receipt number appears on the original transmittal letter submitted with the present application. Applicants request that the application be accorded a filing date of December 28, 2001.

The Office considers the date the paper or fee is shown to have been deposited as "Express Mail" to be the "Date In" on the Express Mail label, MPEP 513. That is the date that verifies that the package was actually mailed. In view of the above, the evidence is convincing that the application was deposited as "Express Mail" with the US Postal Service on December 28, 2001.

The petition is granted. The \$130.00 petition fee is being credited to counsel's deposit account.

The application is being returned to Initial Patent Examination Division for correction of the filing date to September 28, 2001.

Telephone inquiries specific to this matter should be directed to Wan Laymon at (703) 306-5685.


Sherry Brinkley
Petitions Examiner
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy